
Before the

**Senate Committee on Commerce, Science and
Transportation
Subcommittee on Oceans and Fisheries**

Regarding:

**The Magnuson-Stevens Fishery Conservation and Management
Act and the
Atlantic Highly Migratory Species Conservation Act of 1999**

Testimony presented by:

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Good morning Madam Chairman:

My name is Fred Miller and I am the Chairman of the Government Relations Committee for the Coastal Conservation Association ("CCA"). This morning I'd like to focus my testimony on three areas. First, I'd like to tell you a little about CCA and how it operates. Second, I'll address some of the issues we are concerned about in the upcoming Magnuson-Stevens Act reauthorization, and third is S-1911, legislation that you and Senator Breaux both cosponsored.

The Coastal Conservation Association is the leading marine recreational fishing group in the United States. Formed by a small group of sportfishermen in Houston in 1978, CCA has grown to a fifteen-state operation with over 70,000 members. Each of our states operates somewhat independently focusing on issues in the state that are important to marine recreational fishermen. However, like so much in fisheries management, conservation issues encompass a regional and national perspective, therefore, CCA learned long ago that federal and international fisheries management were just as important to the local marine recreational fishermen as the conservation of the most local fish population.

CCA pursues conservation policies set by our state and national Boards of Directors. These boards are made up of active volunteers concerned about the health of the nations fisheries. CCA has been active in a number of conservation issues in the last twenty years, including: all of the east and gulf coast net bans; gamefish status for redfish, speckled trout, tarpon, striped bass, river shad, marlins spearfish and sailfish; and, the reduction of bycatch through the use of closed areas and technology. In the Gulf we are most interested in red snapper. We have also pushed for the improvement of the management system through the restructuring of state and federal management systems; the elimination of conflicts of interests by decision-makers, and the active involvement of our membership in the management process.

Recently members of our Maine chapter met with you and asked you to cosponsor S-1911 and to include recreational fishing issues in your efforts to reauthorize the Magnuson-Stevens Act. I'd like to thank you personally on behalf of all of our members for the attention you and your staff has shown to our concerns. I would also like to thank the senior Senator from Louisiana, Senator Breaux, for all of his help in recreational issues and particularly for his leadership in S-1911.

MAGNUSON -STEVENS ACT

CCA does not yet have a comprehensive position on the reauthorization of the Magnuson-Stevens Act but it will have one early next winter. We would like to brief you and your staff then. However, we do have some issues to raise with you now that need no further discussion among our membership before we can form a position.

The first two issues I'd like to discuss involve the future of red snapper management.

Red snapper management is one of the most complicated and controversial conservation issues in the country. It involves the management of a directed fishery that at the moment has 51% of a mere 9 million pound quota being caught by 132 commercial vessels in a limited entry system. The remaining 49% is caught by thousands of recreational anglers using private and for-hire vessels. In addition, substantial mortality of juvenile snapper still exists in the bycatch of the shrimp fishery. Shrimp vessels are now required by federal law to carry bycatch reduction devices (BRDs) throughout most of the Gulf. In state waters, most of the Gulf States now have or are proposing measures to require their use. In addition, the Gulf Council is considering extending the use of BRDs to the eastern Gulf. These measures, along with a possible bycatch quota for the shrimp industry, offer substantial promise for the rebuilding of the red snapper stock.

These measures have all been taken as a result of the Hutchison amendment to the Sustainable Fisheries Act ("SFA") in 1996. That amendment allowed the Gulf council to treat bycatch from the shrimp industry just like the bycatch of every other fishing fleet in the country. It allowed what Senator Breaux endorsed in principle in his floor statement the night before final passage – namely, allowing the councils, not Congress, to deal with complex fishery management problems. The SFA, however, included two provisions that have become obstacles to the orderly management of the fishery.

The first is the moratorium on the implementation of an individual transferable quota (ITQ) system for vessel owners in the fishery. At the time the Act passed, the Gulf Council had adopted and the Department of Commerce had sent to the Federal Register a system to rationalize the harvest sector in this fishery. The continuation of the ITQ moratorium will only frustrate the full rationalization of this fishery. If the moratorium makes sense someplace else in this country, it doesn't make any sense here and we would ask that it be allowed to expire for all fisheries under the Gulf and South Atlantic Council's jurisdiction. In addition, we ask that the authority to authorize ITQ's be clarified so that any interest may be eligible to purchase them on a willing buyer/willing seller basis. Entities outside the commercial sector should be allowed to retire the quota or transfer it to another sector.

The second red snapper issue deals with section 407 (d), which requires the directed recreational fishery to be managed through a quota management system, similar to the kind used in most commercial fisheries. This is the most blatant anti-recreational measure in the entire Act. It requires the red snapper recreational fishery to be over-managed and closed unnecessarily. No state fishery manager believes that recreational fishery management should be accomplished through the strict application of a quota which, when reached, automatically closes the fishery. They don't use this system in the states because recreational fisheries, unlike commercial ones, need to be managed differently to achieve stability while maintaining conservation goals.

Three fundamentals have to be understood to appreciate this difference. Recreational fisheries include thousands of participants. Some participant's fish a lot, but most are part time

and even occasional participants. They are used to seasons, minimum sizes and bag limits. They are not a highly regulated or easily regulated group. As a result, they do not respond well to uncertainty in fishing regulations. The second fundamental flows from the first. Recreational catches are very difficult and expensive to count accurately. Ask the National Marine Fisheries Service ("NMFS") about the accuracy and the value of the MRFFS data as an in season management tool. It is, at best, an estimate and not a very accurate one, unlike log data and landing statistics used in the commercial sector. Lastly, the *structure* of the recreational sector is different. Recreational fishermen plan their year around their hobby. They gather friends, relatives and equipment to plan a fishing trip. If they charter a boat, they do it well in advance. This kind of activity isn't very compatible with reading the Federal Register to determine if the fishery has been closed.

The flexibility to manage recreational fishing is available in every fishery managed at the federal level except this one. Let's do what Senator Breaux suggested should be done in 1996. Let's leave to the councils the job of developing the right management measures for each of the regions fisheries and stop restricting them from doing their job.

No management is successful without a strong enforcement program. CCA would like to endorse the concepts in the testimony from the State of Louisiana. Integrated enforcement by all of the federal and state arms is necessary to achieve sound conservation. Congress needs to support the state component of this network to allow them to be a functioning part of the system. In the Gulf it is absolutely necessary to have dockside enforcement if our conservation laws will be effective. Too do that we need the cooperation and active support of state enforcement.

Lastly, CCA supports buying out excess capacity in the commercial industry. On the whole we have not approved of the NMFS approach of reverse auctions which seemed to be disconnected with necessary conservation objectives. However, we do believe that the commercial industry does need to be right-sized. There are too many commercial vessels and in many places these vessels have a disproportionate share of the resource. Right sizing is necessary to achieve many of the conservation objectives and harvest reallocations necessary to benefit our marine resources in the next century. At a minimum, we need to authorize parties other than commercial fishermen to participate in buyouts. We need to consider mechanisms that would allow for the free market transfer of quota and the reallocation of quota based on something other than the present traditional economic factors. We intend to work with the committee to fashion such an amendment.

S-1911 ATLANTIC HIGHLY MIGRATORY SPECIES ACT OF 1999

Let me take this opportunity to thank both of you on behalf of our membership for your help and leadership in this issue.

CCA got involved in this issue through the BlueWater Fishermen Association. BWFA wants to explore reducing the bycatch of billfish through closed areas if there was support for a buyout of the smaller vessels in the fleet. CCA was very interested in this concept. Our national Board met three times on this issue and concluded that the approach taken in your bill was not only the right approach for the resource it was the only way we could accomplish our basic conservation goals. As a result, we instructed our General Counsel to enter into negotiations with Blue Water and to build a coalition of other like-minded conservation groups. These negotiations led to a Memorandum of Understanding among CCA, BWFA, the American Sportsfishing Association and The Billfish Foundation, which was signed in August. The MOU contained many of the principles found in your legislation and formed the basis for the working relationship the participating groups have today.

The bill you introduced does the following:

1. Permanently closes an area from the North Carolina/South Carolina border to Key West, Florida to all pelagic longlining.
2. Permanently closes an area off the Gulf coast from Panama City, Florida to Mobile, Alabama to longlining from January through Labor Day.
3. For five years after enactment, it closes an area in the Gulf from Cape San Blas, Florida to Brownsville, Texas from Memorial Day to Labor Day from the beach out to at least 500 fathoms.
4. Provides for a three-year research program with the longline fleet to determine ways to further reduce bycatch by longliners. This research will provide the basis for a permanent solution for longline bycatch, which can be implemented at any time by either the agency or the Congress.
5. Offers to buy all fishing permits from 68 eligible vessels on a willing buyer/willing seller basis. In order to be eligible, a vessel must receive at least 35% of its income from a permanently closed area.
6. Vessels will be prevented from reflagging or fishing in any other commercial fishery including state water fisheries.
7. Vessel owners will be compensated by payment for all fishing licenses (federal and state) and for forfeiture by the vessel of its fisheries endorsement. Vessels not documented will be prevented from being sold into any other commercial fishery.
8. Total cost could approach \$25,000,000. Funding will be through the National Marine Fisheries Service \$15,000,000 if appropriated funds and \$10,000,000 provided by the Federal Financing Back. Funds will be provided only to vessel owners who can document landings and their value. Owners will be paid \$125,000 for their permit packages and an additional payment equal to one year's gross landings value not to exceed a total of \$450,000.
9. The Federal Financing Bank will be repaid with \$10,000,000 split 50/50 between the recreational community and the longline industry.
10. The longline industry will repay its obligation through a surcharge collected at the dealer level. The recreational community will repay its obligation through the issuance of a federal license

to vessels fishing for highly migratory species in the closed areas. The bill establishes a system for states to voluntarily elect to pay the debt for their fishermen.

11. The bill will provide that the permits can be obtained at any post office, retail outlet, on the Internet or through a 1-800 number system. The permits will issue to the boat and will not be transferable.
12. The bill includes requirements for vessel monitoring devices and enhanced observer coverage.
13. The research program will include a special emphasis off the mid-Atlantic in the event of displacement there of existing vessels as a result of the closed area.

The areas chosen for closure are a result of research done by The Billfish Foundation, which identified hot spots for bycatch, and by the swordfish industry which identified areas where small swordfish catches are found. The data used to identify these areas shows that the closures will have a number of positive impacts on bycatch. The preliminary estimates are that it will reduce U.S. longline bycatch in the EEZ by 50% for sails, 45% for blue marlin and 20% for whites. In addition, it will have a positive impact on the bycatch of sharks, tunas, small swordfish, mahi mahi, wahoo and other species. It will reduce the U.S. swordfish fleet by about one-third. Since these vessels also fish in other domestic fisheries from which they will be precluded, the buyout will have some positive impact on the red snapper, shark, grouper and mahi mahi fisheries.

Internationally, it will set a precedent allowing the U.S. to negotiate the international closing of open ocean spawning and small swordfish areas. These closures will further assist in reducing the international fleet exploitation of billfishes.

CCA and its partners have been praised and maligned for their efforts. Most of the criticism has been from groups that do not understand the legislation or are looking for solutions that are not attainable. I'd like to address some of those criticisms.

“Why are recreational fishermen buying out longliners who destroyed the fishery?” One of the earliest votes taken by CCA on the negotiation was whether we as recreational fishermen were willing to pay for some of the buyout of the longline fleet. The vote was unanimous. CCA has always operated on a principle that we were willing to put our money where our conservation mouth is. We have had any number of instances in which CCA has directly participated in the buy-out of gear and licenses through the contribution of funds by our members or as an organization. As an example here in Louisiana, we supported legislation that placed a surcharge on recreational fishing licenses to provide funds for commercial fishermen impacted by the net ban. In Texas, we made direct contributions to the state to buy-out bay shrimp licenses.

CCA looks at resource issues to determine what gains can be made and how those gains will improve recreational fishing. We are not willing to stand back and avoid achieving improvements because someone else is responsible for damage. We are willing to pay because we are getting a benefit.

“There is no conservation benefit.” Approximately 52 percent of the total small swordfish bycatch reported by US pelagic longline fishermen in the US EEZ occurs in the three proposed closed areas. Similarly, approximately 31 percent of the total billfish bycatch reported by US pelagic longline fishermen in the US EEZ occurs in these three areas combined. In addition, these closed areas will reduce the longline catch of other species including mahi mahi.

“The vessels have already left the areas being closed.” Prior to entering into the MOU, The Billfish Foundation commissioned a study by Dr. Phil Goodyear to look at the biological effects of time and area closures on the reduction of bycatch in the tuna and swordfish longline fleets. Dr. Goodyear looked at thousands of data sets from longline vessels in the south Atlantic and the Gulf to determine where and when the greatest reductions could be achieved if areas were closed. That data was used to determine which areas should be closed. In addition, in the Gulf the objective was to address the area of the greatest billfish bycatch and the recreational and longline fleet interaction without displacing the longline fleet to new areas of the Gulf or the Caribbean.

“There will be displacement of the fleet to the mid-Atlantic bight.” There are two issues here. The first is the impact of the vessels being bought out and the second is the potential for more effort in the mid-Atlantic as a result of the closed areas.

A substantial portion of the negotiation over the MOU was spent discussing how to avoid the displacement of the eligible vessels to any fishery. The provisions in the bill, which restrict the vessels accepting the buyout from participating in any commercial fishery, were a result of those discussions. Vessels will be required to forfeit all of their state and federal fishery permits. In addition, the vessels will be required to permanently forfeit their fisheries endorsement, which will restrict any subsequent owner from placing the vessel in a commercial fishery. The vessels are also prevented from reflagging. Since these vessels are in limited entry systems this will reduce the number of licenses in the swordfish, tuna, shark and red snapper fisheries. None of these vessels will ever again carry a longline.

“This won’t help get a rebuilding plan for swordfish.” This bill is not intended as the exclusive measure to achieve a rebuilding plan for swordfish. The bill’s aim is to reduce the harvest of small swordfish and billfish. However, it will greatly assist in the achievement of an Atlantic-wide recovery that was just negotiated at the recent ICCAT meeting in Rio. ICCAT agreed with the United States that it would adopt a ten-year rebuilding program for swordfish. That agreement came at some substantial cost to the domestic swordfish industry. In addition to taking a quota reduction, the domestic industry agreed to phase down its allowable discard of small swordfish. Without this concession by the industry, no deal approaching a ten-year rebuilding plan was possible.

Taken as a whole, the U.S. industry will take a quota reduction approaching 20% over the next three years, while other fishing fleets from the EU and Japan will take considerably less of a cut. I believe that the existence and the potential for eventual passage of this legislation gave the industry the support to make this sacrifice.

“Why not let NMFS close areas?” Earlier in my testimony I spoke of red snapper and the need to allow the Councils and not the Congress to manage fisheries. CCA strongly endorses this principle and has conducted its activities to ensure the minimum amount of federal interference in fisheries management. Given that, you might ask why we are supporting a legislative approach to the address longline bycatch when the National Marine Fisheries Service is in the process of proposing rules that will do just that. The reason is that NMFS does not have the authority under the Magnuson-Stevens Act to accomplish what can be accomplished through your bill. As Penny Dalton will tell you, the bill you have introduced goes well beyond what NMFS can accomplish through rulemaking.

NMFS can clearly close areas to longlining, however, in doing so they must take several factors into consideration, including the economic impact on the longline fishery and the biological impact on other fisheries if the closed areas result in the displacement of vessels. They have no authority to buyout displaced vessels and therefore have to adjust the area they are proposing to mitigate the impact on the industry and other fisheries. This mix of considerations is best described by comparing the NMFS proposal for the Gulf of Mexico presented to the HMS AP in June and the S.1911 Gulf closure. What NMFS proposed was to close an area in the Western Gulf from about Port Eads westward to the Mexican boarder for the months of June, July and August. This will have a significant biological benefit for billfish in the western Gulf and could have a positive impact on the spawning populations of bluefin tuna. It will, however, displace the entire western Gulf longline fleet to the eastern Gulf during that period. CCA members in Texas will enjoy substantially improved recreational billfishing and will be effectively free of any longline interaction. However, our members in Louisiana, Mississippi, Alabama and Florida will get to enjoy an even greater interaction with the longline fleet as they shift their effort to the east. Your bill is designed to prevent the lateral displacement of the fleet in the Gulf and by pushing the longline effort further offshore it creates separation of the two activities and produces a positive conservation effect.

On the East Coast this is even more dramatic. Your bill proposes a permanent closure on the East Coast from Key West to North Carolina. It assumes that there will be a number of vessels displaced as a result and offers to buy them out of all commercial fishing rather than allow them to shift their effort. NMFS can close the same area or even one larger, but when they do, they will simply send the effort elsewhere either to the Gulf or the mid-Atlantic. The alternative would be to reduce the size of the closure thereby reducing the potential for displacement, but also reducing the conservation benefit. Neither of these two results is going to make recreational fishermen happy.

The answer is absolutely clear to us. If we can get the kind of meaningful conservation that is in your bill then we wanted to part of passing it. Thank you again for your leadership and allowing us to testify.